

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RONALD AND KIMBERLY WOODS

COMPLAINANTS

v.

LOUISVILLE GAS AND ELECTRIC COMPANY  
AND  
SALT RIVER ELECTRIC COOPERATIVE  
CORPORATION

DEFENDANTS

CASE NO. 97-098

O R D E R

Gerald J. Kushner and Marilyn W. Kushner ("the Kushners") move for intervention in this proceeding. Their motion<sup>1</sup> poses the following issues: Do persons owning property adjoining property which is the subject of a boundary dispute have an interest in which retail electric supplier serves the adjoining property? Finding in the negative, the Commission denies the motion.

The Kushners owned and operate a vineyard which is located at 10206 Broad Run Road, Jeffersontown, Kentucky. This property adjoins the property for which Complainants seek electric service from the Louisville Gas and Electric Company ("LG&E"). In their motion, the Kushners contend that the Complaint "has the potential

---

<sup>1</sup> The Kushners' "motion" is a letter from their legal counsel in which he requests leave to intervene on their behalf in this proceeding. For purposes of this Order, the Commission will consider this letter as a motion for intervention.

to result in the grant of an easement across that portion of the Kushners' property on which this vineyard is located." Motion at 1. They further contend that such easement would result in a major threat to the well-being of the Kushners' vineyard." Id.

Administrative Regulation 807 KAR 5:001, Section 8, provides that a party should be granted leave to intervene if it has "a special interest in the proceeding which is not otherwise adequately represented" or intervention "is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings."

The Kushners have no special interest in this proceeding. Their motion for intervention is based upon the premise that the selection of a particular retail electric supplier to serve the Complainants' proposed residence will affect their property's economic value and that the Commission must consider this potential loss of economic value in reaching its decision.

The effect of any Commission decision on the Kushners' property, however, is not relevant to this proceeding. KRS 278.018(1) provides that a retail electric supplier has the exclusive right to provide electric service in its certified service territory. No other retail electric supplier may supply electricity within that territory except under very limited conditions. The sole question before the Commission is in whose certified service territory is the Complainants' proposed residence located. Once the Commission answers this question, KRS 278.018(1) dictates which retail electric supplier will supply the Complainants. Assuming arguendo that the Commission found that the Complainants' proposed residence is located in the certified service territories of both

Defendants, the criteria of KRS 278.017(3), upon which any Commission decision must be based, does not include the economic impact on adjoining property owners.

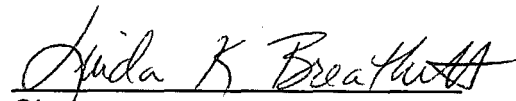
The Kushners fail to show that their intervention would assist the Commission in the development of any facts or issues germane to this proceeding. They fail to indicate any special expertise in or knowledge of the issues presented by the Complaint and Answers. As they desire to address issues involving property valuation and land use - issues which are better addressed by other forums, the Kushners' intervention is likely to unduly complicate and delay these proceedings.


For these reasons, the Commission finds that the Motion for Intervention should be denied.<sup>2</sup>

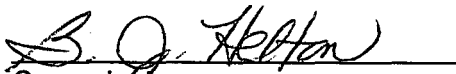
IT IS THEREFORE ORDERED that the Kushners' Motion for Intervention is denied.

Done at Frankfort, Kentucky, this 14th day of July, 1997.

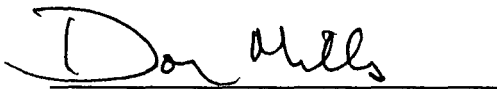
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

<sup>2</sup>

By its Order today, the Commission rules only on the Kushners' intervention in a proceeding addressing which retail electric supplier must supply service to the Complainants. It makes no ruling on the Kushners' right to intervene in any proceeding addressing the method by which retail electric service is provided or to initiate proceedings pursuant to KRS 278.260.

The Complainants own a parcel of real estate which is located at 10300 Broad Run Road in Jefferson County, Kentucky. They plan to construct their residence on that property. The Complainants requested that LG&E provide electric service to the property. Because of its difficulties in obtaining voluntary easements from the adjoining

property owners and uncertainty over whether the property was located within the utility's certified service territory, LG&E did not comply with the Complainants' requests.


Unable to secure electric service to their property, the Complainants brought their complaint against LG&E in which they requested that the Commission determine which retail electric supplier should supply electric service to their proposed residence. In its Answer, LG&E asserted that it was uncertain that the proposed residence was within its certified service territory. The Commission subsequently ordered that Salt River Electric Cooperative Corporation ("Salt River"), the retail electric supplier whose certified service territory adjoins LG&E's certified service territory, be made a party to this proceeding and that it answer the Complaint. In its Answer, Salt River asserted that the Complainants' proposed residence was located entirely within LG&E's certified service territory. After several discussions, the parties stipulated that the site of Complainants' proposed residence is located completely within LG&E's certified service territory and requested that the Commission render a decision based upon this stipulation.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the Complainants' proposed residence is located solely within LG&E's certified service territory. As a retail electric supplier must provide retail electric service within its certified service territory, KRS 278.016, LG&E should take all necessary actions to provide retail electric service to the Complainants' proposed residence at 10300 Broad Run Road in Jefferson County, Kentucky.

IT IS THEREFORE ORDERED that LG&E shall promptly extend retail electric service to the Complainants' proposed residence at 10300 Broad Run Road, Jefferson County, Kentucky, in accordance with its filed rate schedules.

Done at Frankfort, Kentucky, this 14th day of July, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director